

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

STATE OF NEW YORK, and

STATE OF FLORIDA,

Plaintiffs,

v.

THE TAX CLUB, INC., et al.,

Defendants, and

SANDRA C. SAVAGE,

Relief Defendant.

Case No. 13-CV-210 (JMF)

**JOINT MOTION FOR ENTRY OF STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT INJUNCTION AND MONETARY RELIEF AS TO
THE CORPORATE DEFENDANTS AND INDIVIDUAL DEFENDANTS BRENDON A.
PACK AND MICHAEL M. SAVAGE AND FOR DISMISSAL OF DEFENDANT
1800ACCOUNTANT, LLC AND RELIEF DEFENDANT SANDRA C. SAVAGE**

Plaintiffs, the Federal Trade Commission, the State of New York, and the State of Florida (“Plaintiffs”) and Defendants Brendon A. Pack (“Pack”), Michael M. Savage (“Savage”) and all of the corporate defendants except 1800Accountant, LLC (“Corporate Defendants”) hereby move for entry of the attached Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief as to the Corporate Defendants and Individual Defendants Brendon A. Pack and Michael M. Savage (the “Proposed Final Order”) and the dismissal, with prejudice, of Defendant 1800Accountant, LLC and Relief Defendant Sandra C. Savage.

The Proposed Final Order would require, *inter alia*, Pack and Savage to turn over and transfer assets with an estimated value in excess of \$10 million. The assets to be turned over and transferred include funds held in brokerage and bank accounts as well as commercial and residential properties identified in the Proposed Final Order. In addition, Pack, Savage, and the Corporate Defendants will relinquish all rights and interests to Plaintiffs in funds held in certain specified merchant reserve accounts. In addition, Pack, Savage and the Corporate Defendants are also required to adhere to specified conduct restrictions in connection with their future business activities.

In support of this motion, the parties state as follows:

1. Plaintiffs commenced this action on January 9, 2013 by filing their Complaint against Defendants Edward B. Johnson (“Johnson”), Michael M. Savage (“Savage”), Brendon A. Pack (“Pack”), Gary J. Milkwick (“Milkwick”), twelve corporate defendants ((1) The Tax Club, Inc., (2) Manhattan Professional Group, Inc., (3) 5410, Inc., (4) Marble Base, Inc., (5) 6015, LLC, (6) Ikongo, Inc., (7) Tahuya, Inc., (8) Visavis, Inc., (9) HB Marketing Services, LLC, (10) Premier Coaching & Consulting, LLC, (11) Skorprios Holdings, Inc. and (12) 1800Accountant, LLC) and Relief Defendant Sandra C. Savage, for injunctive and other equitable relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (the “FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. §§ 6101-6108, the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), §§ 501.201 et seq., and New York Executive Law § 63(12) (“NY Exec. Law”).

2. On January 11, 2013, the Court granted in part Plaintiffs' request for a noticed temporary restraining order with immediate access to Defendants' business premises, with consent of the parties. [Dkt. No. 31].
3. On February 8, 2013, the Court entered a stipulated preliminary injunction order between the Plaintiffs and the Defendants. [Dkt. No. 74].
4. On March 18, 2013, Defendant Johnson and Defendants Savage, Pack, and the corporate defendants filed separate motions to dismiss the Plaintiffs' Complaint. [Dkt. Nos. 79, 81].
5. On April 8, 2013, Plaintiffs filed an Amended Complaint in response to Defendants' motions to dismiss. [Dkt. No. 88].
6. On May 13, 2013, defendant 1800Accountant, LLC filed a separate motion to dismiss. [Dkt. No. 93].
7. On January 17, 2014, the Court denied the Defendants' motions to dismiss. [Dkt. No. 122].
8. Plaintiffs and Savage, Pack, and the Corporate Defendants have agreed to and stipulated to the attached Proposed Final Order and separate Motion to Dismiss corporate defendant 1800Accountant and relief defendant Sandra Savage. In agreeing and stipulating to the Proposed Final Order, Savage, Pack, and the Corporate Defendants neither admit nor deny any of the allegations in the Amended Complaint, except as specifically stated in the Proposed Final Order. The Proposed Final Order includes provisions that, *inter alia*
 - a. permanently bans Savage, Pack, and the Corporate Defendants from the marketing or sale of Business Coaching Services, Credit Development Services,

or Work-at-Home Opportunities, while allowing them to engage in the marketing or sale of tax or accounting services (Section I);

- b. permanently enjoins Savage, Pack, and the Corporate Defendants from initiating outbound telemarketing calls to induce the purchase of products or services without the express agreement, in writing, of the person they are calling. This prohibition does not apply to fulfilling products and services on previous purchases (Section II);
- c. permanently enjoins Savage, Pack, and the Corporate Defendants from, in connection with telemarketing: (1) failing to disclose the identity of the seller; that the purpose of the call is to sell goods or services; and the nature of those goods and services; and (2) violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310 (Section III);
- d. permanently enjoins Savage, Pack, and the Corporate Defendants from making misrepresentations, including but not limited to:
 - i. that consumers will recoup the cost of any of their products and services through the provision of any product or service any Defendant offers, and/or provision of a tax deduction, tax refund, or tax credit;
 - ii. that consumers will be able to transfer the cost of any of Defendants' products and services to their future businesses;
 - iii. that consumers will have unlimited access to advisors;
 - iv. that any advisors will provide specialized expert advice tailored to the consumers' specific needs;

- v. that consumers will receive individualized business plans tailored to the consumer's particular business;
 - vi. that consumers will recoup the money they already paid to other companies if they purchase additional products and services from any Defendant;
 - vii. that any person or entity is affiliated or associated with, under contract with, acting in partnership with, endorsed or approved by, or otherwise connected to any other person, business entity, or government entity;
 - viii. the cost of any product or service;
 - ix. any material restriction, limitation, or condition on the product or service;
 - x. any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy for the product or service; and
 - xi. any material aspect of the performance, efficacy, nature, or central characteristics of the product or service (Section IV);
- e. appoints a liquidator to sell Savage and Pack's real property (Sections VI and VII); and
- f. requires Savage, Pack, and the Corporate Defendants to submit order acknowledgements, compliance reporting, recordkeeping and compliance monitoring (Sections IX - XII).

WHEREFORE, the Plaintiffs and Savage, Pack, and the Corporate Defendants respectfully request that the Court enter the attached Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief as to the Corporate Defendants and Individual

Defendants Brendon A. Pack and Michael M. Savage to resolve all matters of dispute between them in this action.

WHEREFORE, Plaintiffs and 1800Accountant, LLC and Sandra C. Savage request that the Court dismiss 1800Accountant and Sandra C. Savage with prejudice.

Respectfully submitted,

Dated May 29, 2014

/s/ Ann F. Weintraub

Darren Lubetzky
Ann F. Weintraub
Savvas Diacosavvas
Federal Trade Commission
Northeast Region
1 Bowling Green, Suite 318
New York, New York 10004
Tel: 212-607-2829
Fax: 212-607-2822
Counsel for Plaintiff
Federal Trade Commission

Dated May 29, 2014

/s/ Robert G. Clements

Robert G. Clements
Office of the Attorney General
135 W. Central Blvd., Suite 1000
Orlando, Florida 32801
Tel: 407-245-0833
Fax: 407-245-0365
Counsel for Plaintiff State of Florida

Dated May 29, 2014

/s/ Judy S. Prosper

Judy S. Prosper
Office of the Attorney General
Westchester Regional Office
101 East Post Road
White Plains, New York 10601
Tel: 914-422-8824
Fax: 914-422-8706
Counsel for Plaintiff State of New York

Dated May 29, 2014

/s/ Judith A. Archer
Judith A. Archer
Peter Guirguis
Sarah E. O'Connell
Fulbright & Jaworski. L.L.P
666 Fifth Avenue
New York, New York, 10103
Tel: 212-318-3000
Fax: 212-318-3400
*Counsel for Defendants Pack, Savage,
and the Corporate Defendants*